

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT GIRTS,	:	Case No. 1:02cv0264
	:	
Petitioner,	:	JUDGE KATHLEEN O'MALLEY
	:	
vs.	:	
	:	
CHRIS YANAI, Warden,	:	<u>ORDER</u>
	:	
Respondent.	:	

On July 12, 2005, this Court denied the Petitioner's application for a writ of habeas corpus, which he sought pursuant to 28 U.S.C. §2254, and dismissed this case. *See* Docs. 30 and 31. In its dismissal order, however, the Court granted Petitioner a certificate of appealability with regard to his third and fifth grounds for relief – namely, his 5th Amendment prosecutorial misconduct ground and his 6th Amendment ineffective assistance of counsel ground. *See* Doc. 31. Relative to those grounds, Petitioner appealed the Court's decision to the United States Court of Appeals for the Sixth Circuit ("Sixth Circuit"). *See* Doc. 32. The Sixth Circuit found both grounds well-taken.

Accordingly, on September 5, 2007, the Sixth Circuit issued a written decision *reversing* this Court's decision, *conditionally granting* a writ of habeas corpus, and *remanding* the case to this Court with instructions. *See* Doc. 38.¹ On March 14, 2008, the Sixth Circuit issued its mandate relative to its written opinion. *See* Doc. 40.

¹ The Sixth Circuit's information copy of its decision was filed on this Court's docket on September 7, 2007.

In conformity with the Sixth Circuit's opinion, Petitioner's application for a writ of habeas corpus is **CONDITIONALLY GRANTED** as follows. Unless the State of Ohio grants Petitioner a new trial within 180 days from the date of this Order, Petitioner is to be released from custody at that time.

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: April 14, 2008